

## JOEL BYINGTON.

FEBRUARY 29, 1840.

Laid on the table.

Mr. RUSSELL, from the Committee of Claims, made the following

## REPORT :

*The Committee of Claims, to whom was referred the petition of Joel Byington, asking additional compensation for damages done to his property at Chazy village, on the northern frontier, and within the State of New York, during the late war with Great Britain, by the United States troops, report :*

The petitioner states, among other things, that the house, out-houses, and premises, being a village lot, and the buildings thereon, in the village and town of Chazy, in the State of New York, were forcibly, and without his consent, or any contract with him, taken possession of, by order of the commandant of that station, early in the year 1814, by a detachment of the United States troops stationed at that place, and occupied by them as barracks; which occupation continued until August, 1815, by means whereof the premises were greatly injured and the buildings mostly ruined.

The claim for these damages was interposed in 1817, and a commission sent out to estimate and report to the Department of War the damage done to the petitioner's property in consequence of the military occupation thereof, and that of other individuals similarly situated; pursuant to which, a report was made that the damages to the petitioner's property, in consequence of the military occupation thereof, as above set forth, amounted to \$598 02, consisting of the following items, to wit :

Damages to house	-	-	-	-	-	\$415 42
Damages to barn	-	-	-	-	-	34 59
One necessary house, destroyed	-	-	-	-	-	5 50
One hogsty, destroyed	-	-	-	-	-	19 00
Apple trees, destroyed	-	-	-	-	-	12 00
27 rods and 3 feet of board fence, destroyed	-	-	-	-	-	27 51
One bee-house, destroyed	-	-	-	-	-	7 00
13 rods and 4½ feet of picket fence, destroyed	-	-	-	-	-	40 00
Plum trees, destroyed	-	-	-	-	-	24 00
Currant bushes, vines, and shrubs, destroyed	-	-	-	-	-	13 00
Total	-	-	-	-	-	\$598 02

That, at the 1st session of the 20th Congress, the claim was referred, in the House of Representatives, to the Committee of Claims, who made a report thereon in favor of the petitioner for the sum of \$282 16, and intro-

duced a bill for the petitioner's relief, which afterwards, and on the 30th of January, 1830, was passed into a law; at this time a portion of the claim was suspended, for the reasons stated in the report. At the 2d session of the 22d Congress a claim for the suspended balance was presented, and, in the House of Representatives, referred to the Committee of Claims, which made a favorable report thereon, and introduced a bill for the payment of what was supposed to be the amount which the petitioner was entitled to receive, being \$148 01; which finally, at the 1st session of the 23d Congress, was passed into a law. In addition to these sums, the petitioner has received the *rent* of said premises from the quartermaster; and in the aforesaid report, made on the 14th April, 1828, it is stated that the amount paid the petitioner for the rent of said premises was \$263 50; upon this hypothesis the petitioner has received for rent and damages \$693 67. The premises were occupied by the troops between one and two years, and it is in testimony that they would not have rented for a sum exceeding sixty or seventy dollars annually for private use and on ordinary occasions. Under these circumstances, the committee have again reviewed the whole claim; and, though they might not have arrived at the precise result to which former committees have, yet when there is testimony (as in the present case) from which different conclusions may be drawn, that respect which is due to precedent, and the intelligence of those who have established such precedent, would induce the committee to hesitate before adopting conclusions essentially variant from those found in the former reports.

The committee do not mean to decide that under no circumstances would they depart from the decisions of a former committee; but what they do intend is, that where a claim has been fully and fairly examined upon all the testimony in the case, and conclusions drawn from conflicting evidence or circumstances contemporaneously with the transaction, and a decision made purporting to be final, and a bill reported in favor of the applicant and passed into a law, and the avails received by him purporting to be in full satisfaction for the claim, such a proceeding should be held as presenting at least *prima facie* evidence of the rights of the parties, and may well be held final. A new case may be made by supplemental testimony, which would require an investigation of the whole case. With the supplemental evidence, casual mistakes should be corrected; but, when the case is again presented upon the identical facts before submitted, it must be a strong case of error or mistake which should call for another minute investigation. Such a case the committee do not conceive the one under consideration to be; and they therefore offer for the consideration of the House the following resolution:

*Resolved*, That the prayer of the petitioner ought not to be granted.